

REMARKS

The above amendment with the following remarks is submitted to be fully responsive to the Official Action of May 18, 2004. Reconsideration of this application in light of the amendment and the allowance of this application are respectfully requested.

Claim 14 stands objected to for an informality noted by the Examiner. In response, the phrase "at least one of the elements" has been amended to recite "at least one of the roof elements". Thus, it is believed that this objection has been overcome.

Claims 1, 8 and 14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Richters et al. in view of German et al. In response, claim 1 has been amended to clarify the present invention. As a result, it is believed that the combination of Richters et al. and German et al. does not render the present invention as recited in newly amended independent claim 1 obvious.

The combination of Richters et al. and German et al. does not render the present invention of newly amended independent claim 1 obvious for the following reasons. Admittedly, Richters et al. discloses a motor vehicle with a passenger compartment and a roof comprising at least one roof element which is movably mounted, two opposing side elements and one rear element, wherein the roof element is movable into an open position. However, as recognized by the Examiner, Richters et al. does not show the roof element being movable into a rear floor area of the motor vehicle. The roof element can be inserted between lateral frame parts, a frame part and a rollover bar but is not capable of being lowered to the rear floor area of the motor vehicle. German et al. on the other hand admittedly discloses a storage device for vehicle roof elements in which the roof elements are inserted in a nearly vertical position by hand. The present invention as recited in newly amended independent claim 1, however, specifically requires a roof element lowerable in a horizontal position into an

open position located in a rear floor area of the motor vehicle. Thus, claim 1 requires the roof element to be lowerable in a horizontal position when moving from the closed to the open position. The reference to German et al. nowhere discloses or even suggests lowering roof elements while in a horizontal position during a roof opening procedure. The roof elements of German et al. are merely lowered into a storage space while in a nearly vertical position. The present invention as recited in newly amended independent claim 1 and clearly shown in Fig. 2B, requires the at least one roof element to be lowerable while in a horizontal position. This feature is clearly taught by Figure 2B, and its brief description, which shows the rear roof section being lowered while the rear roof elements are in the horizontal position. Since neither Richters et al. nor German et al. suggest a roof element lowerable in a horizontal position into an open position, one of ordinary skill in the art would not find it obvious to modify the teachings of Richters et al. based on the German et al. reference so as to arrive at Applicants' invention as recited in newly amended independent claim 1.

Accordingly, reconsideration and withdrawal of newly amended independent claim 1 under 35 U.S.C. §103(a) is in order and respectfully requested. Likewise, it is respectfully requested that dependent claims 2-15 are allowable at least in that they depend from what is believed to be allowable base claim 1.

Claims 2-7, 9-13 and 15 stand objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form. In response, new independent claims 16-20 are hereby added to reflect in independent form original claim 1 in combination with dependent claims 2 (16); 4 (17); 8 (18); 9 (19); and 15 (20). Thus it is respectfully requested new claims 16-20 are allowable.

In view of the foregoing, it is submitted that the present application is in condition for allowance and a notice to that effect is respectfully requested. However, if the Examiner deems that any issue remains after considering this

response, he is invited to call the undersigned to expedite the prosecution and work out any such issue by telephone.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Tim L. Brackett, Jr.', written over a horizontal line.

Tim L. Brackett, Jr.
Registration No. 36,092

NIXON PEABODY LLP
401 9th Street, N.W., Suite 900
Washington, D.C. 20004-2128
(202) 585-8000
(202) 585-8080 (Fax)
Customer No. 22204

Date: August 18, 2004